

AMENDED IN SENATE SEPTEMBER 4, 2007

AMENDED IN SENATE JUNE 19, 2007

AMENDED IN ASSEMBLY MARCH 29, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1331**

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**Introduced by Assembly Member Evans**

February 23, 2007

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An act to add Section 13757 to the Welfare and Institutions Code, relating to foster youth.

LEGISLATIVE COUNSEL’S DIGEST

AB 1331, as amended, Evans. Foster youth: federal benefits.

Existing law provides for the placement of certain children in foster care under the custody of the State Department of Social Services and county welfare departments.

Existing law establishes the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program, under which counties provide payments to foster care providers on behalf of qualified children in foster care. The program is funded by a combination of federal, state, and county funds, with moneys from the General Fund being continuously appropriated to pay for the state’s share of AFDC-FC costs.

Existing law, the federal Social Security Act, provides for benefits for eligible beneficiaries, including survivorship and disability benefits and Supplemental Security Income (SSI) benefits for, among others, blind and disabled children. The act authorizes a person or entity to be appointed as a representative payee for a beneficiary who cannot manage or direct the management of his or her money. Existing law also provides

for the State Supplementary Program for Aged, Blind and Disabled under which State Supplemental Payments (SSP) are made in supplementation of SSI benefits.

Existing law requires a county to apply to become a child's representative payee for purposes of these federal benefits during the time the child is placed in foster care, and also requires the county to provide information regarding certain federal requirements when a foster youth who is receiving SSI payments is approaching his or her 18th birthday.

Existing law requires the State Department of Social Services to convene a workgroup to develop best practice guidelines for county welfare departments to assist eligible children who are in the state's or a county's custody and are qualified under the bill in obtaining federal social security and supplemental security income benefits. Existing law requires the workgroup to make recommendations to the department, by December 31, 2006, regarding the feasibility and cost-effectiveness of reserving a designated amount of foster children's social security and SSI/SSP benefits in lieu of reimbursing the county and the state for care and maintenance, and, in making those recommendations, to consider that the reserved benefits would be for the purpose of assisting the foster child in the transfer to self-sufficient living in a manner consistent with federal law.

This bill would require a county to screen each foster youth ~~in its care when that youth reaches foster care who is 16½ years of age, or as otherwise specified in the bill, or older~~ in order to determine whether the youth is eligible for federal SSI benefits.

This bill would make compliance with this requirement contingent upon the ability of the county to use state AFDC-FC resources for the foster youth pending the application for federal benefits, as prescribed, and would require the department to clarify that this funding mechanism is consistent with federal law. ~~Subject to the appropriation of General Fund money in the annual Budget Act, this bill would authorize a youth to remain in his or her current foster care placement pending the final resolution of the SSI application, or until the youth reaches 21 years of age, whichever comes first.~~

This bill would provide that no appropriation would be made for purposes of funding the bill pursuant to the provision continuously appropriating funds for the AFDC-FC program.

By increasing county duties, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

3 (a) When compared to youth without disabilities, foster youth  
4 with disabilities are more likely to be institutionalized, to lack  
5 sufficient education, and to have higher incidences of homelessness  
6 and mental health problems following discharge from foster care.

7 (b) Key to transition planning for disabled foster youth is  
8 ensuring that qualified youth are approved for all benefits, most  
9 importantly federal Supplemental Security Income (SSI) benefits,  
10 and that they are able to accumulate some level of savings to aid  
11 in their transition to independent living.

12 (c) Foster youth with disabilities gain significant advantages at  
13 the time of emancipation if their eligibility for SSI benefits has  
14 been established prior to their emancipation.

15 (d) Unfortunately, federal law and regulations prohibit a child  
16 who receives a federally funded AFDC-FC benefit in excess of  
17 the federal SSI benefits from applying for SSI until the month prior  
18 to the federal AFDC-FC benefits ending. In order to apply for SSI  
19 benefits, a child may not be receiving federally funded AFDC-FC  
20 benefits in the month of application or, depending on the timing  
21 of the application, the month after the application is filed. After  
22 the application for SSI benefits is accepted by the Social Security  
23 Administration, federal rules indicate that the child may receive  
24 federally funded AFDC-FC benefits during the remainder of the  
25 application process. Upon approval for SSI benefits, these benefits  
26 may be suspended for up to 12 months, during which time a child  
27 may receive federally funded AFDC-FC benefits without losing  
28 eligibility for SSI benefits. Using this flexibility will allow for

1 applications to be made on behalf of federally eligible youth who  
2 are nearing emancipation from foster care.

3 SEC. 2. Section 13757 is added to the Welfare and Institutions  
4 Code, to read:

5 13757. (a) ~~Every~~*(1) Subject to paragraph (2), every* youth  
6 who is in foster care and nearing emancipation shall be screened  
7 by the county for potential eligibility for the federal Supplemental  
8 Security Income (SSI) program utilizing the best practice guidelines  
9 developed pursuant to Section 13752. ~~This screening shall~~

10 *(2) The screening required in paragraph (1) shall only occur*  
11 ~~when the foster youth reaches 16½ years of age, or in the case of~~  
12 ~~youth likely to remain in federally funded foster care beyond the~~  
13 ~~age of 18 years pursuant to Section 11403, at a time approximately~~  
14 ~~18 months prior to his or her anticipated emancipation date. An~~  
15 ~~application shall be is 16½ years of age or older. An application~~  
16 *shall be* submitted to the federal Social Security Administration  
17 on behalf of a youth who is screened as being likely to be eligible  
18 for federal Supplemental Security Income benefits. To the extent  
19 possible, the application shall be timed to allow for a determination  
20 of eligibility by the Social Security Administration prior to the  
21 youth's emancipation from care including, if appropriate, the  
22 suspension of Supplemental Security Income benefits for no more  
23 than 12 months.

24 (b) In carrying out the requirements of subdivision (a) for a  
25 youth receiving federally funded AFDC-FC benefits, the county  
26 shall, if necessary, forego federally funded AFDC-FC and instead  
27 use state AFDC-FC resources to fund the placement in the month  
28 of application or in the month after making an application, and to  
29 subsequently reclaim federally funded AFDC-FC, in order to  
30 ensure that the youth meets all of the SSI eligibility requirements  
31 in a single month while the application is pending, as provided by  
32 federal law and regulation. Notwithstanding subdivision (a) of  
33 Section 11402, this section shall apply to a foster youth regardless  
34 of his or her federal AFDC-FC eligibility.

35 (c) Prior to the implementation of subdivision (b), the State  
36 Department of Social Services shall obtain clarification from the  
37 Social Security Administration and the United States Department  
38 of Health and Human Services by January 1, 2008, that the funding  
39 mechanism described in subdivision (b) is consistent with federal  
40 law and regulation.

1     ~~(d) In a case in which the county has submitted an application~~  
2 ~~for a foster youth pursuant to this section, and the Social Security~~  
3 ~~Administration has not issued a final decision, including the results~~  
4 ~~of any relevant reconsiderations and appeals that may have been~~  
5 ~~pursued, at the point at which the youth would otherwise~~  
6 ~~emancipate out of care, the youth shall be permitted, at his or her~~  
7 ~~option, under a mutual agreement pursuant to Section 11403, to~~  
8 ~~remain in his or her current foster care placement, until the final~~  
9 ~~resolution of his or her SSI application or until the youth reaches~~  
10 ~~21 years of age, whichever comes first. This subdivision shall be~~  
11 ~~implemented only to the extent that General Fund money is~~  
12 ~~appropriated in the annual Budget Act to pay 100 percent of the~~  
13 ~~additional costs of providing foster care funding and services~~  
14 ~~beyond the date the youth otherwise would have become ineligible~~  
15 ~~to receive federal AFDC-FC funding.~~

16     SEC. 3. No appropriation pursuant to Section 15200 of the  
17 Welfare and Institutions Code shall be made for the purposes of  
18 funding this act.

19     SEC. 4. If the Commission on State Mandates determines that  
20 this act contains costs mandated by the state, reimbursement to  
21 local agencies and school districts for those costs shall be made  
22 pursuant to Part 7 (commencing with Section 17500) of Division  
23 4 of Title 2 of the Government Code.